IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION

Anthony James Moore, Plaintiff, vs. Leann K. Bertsch, Director of Corrections, et al. Defendants.	)	**ORDER DENYING PLAINTIFF'S MOTION FOR DISCIPLINARY ACTION AND SANCTIONS** Case No. A1-05-098

The Court has recently outlined the procedural history of this case, but will do so again. See Docket No. 21. On September 22, 2005, the plaintiff, Anthony James Moore, an inmate at the North Dakota State Penitentiary, filed a complaint alleging numerous constitutional violations actionable under 42 U.S.C. § 1983. That same day, the Court granted Moore's motion to proceed *in forma pauperis* and filed his complaint. See Docket Nos. 2 and 4. At that time, service packets[1] were sent by the Clerk of the Court Office, in error, to several of the defendants. The normal procedure is to delay service until such time as a prisoner claim can be screened under 28 U.S.C. § 1915A. If, after screening, the claim is allowed to go forward, service packets are sent out to the named defendants.

Upon receiving service packets, potential defendants contacted the Office of the Clerk of Court seeking clarification about the posture of the case.[2] Mr. Robert Ansley,[3] acting as a liaison for the Office of the Clerk of Court, informed those defendants that Moore's case had not yet undergone screening and as a result the service packets were sent out prematurely.

[1]Service packets include a copy of the complaint and forms to waive formal service of process.

[2]Specifically, counsel on behalf of defendants Meritcare Hospital, Dr. Leff Lynstad, and Dr. Robert Montgomery, contacted the Office of the Clerk of Court.

[3]Mr. Ansley is a staff attorney for the Office of the Clerk of Court located in Bismarck, North Dakota.

On October 25, 2005, Moore filed a motion seeking to have the remaining defendants in the action served pursuant to 28 U.S.C. § 1915(d). See Docket No. 14. Moore's motion was denied in an order issued on November 9, 2005, by Magistrate Judge Charles S. Miller, Jr. wherein he explained that until such time as a proper screening can be conducted as contemplated by 28 U.S.C. § 1915A, service is premature. See Docket No. 17. Shortly thereafter, Moore filed a motion seeking to set aside Magistrate Judge Miller's order pursuant to Local Rule 72.1(E)(3). See Docket No. 20. In an order dated November 16, 2005, this Court summarily denied that motion. See Docket No. 21.

On November 9, 2005, Moore filed a motion entitled "Motion for Disciplinary Action and Sanctions Be Taken Against the Clerk of Court Office and Against Robert Ansley." Moore opines that Mr. Ansley has "sabotaged" has case and violated his civil rights by failing to send out service packets. For that perceived violation, Moore seeks sanctions against Mr. Ansley.

At the outset, the Court would note that Moore has failed to cite any legal precedent, statutory or otherwise, to support the imposition of sanctions in this matter. More important, the Court finds that Moore's allegations are frivolous and without merit. Mr. Ansley's representations to defense counsel regarding the premature nature of the service packets were correct, a fact expressly recognized by both Magistrate Judge Miller's order dated November 9, 2005, as well as this Court's order dated November 16, 2005. Anthony James Moore's "Motion for Disciplinary Action and Sanctions Be Taken Against the Clerk of Court Office and Against Robert Ansley" is **DENIED**. (Docket No. 19).

IT IS SO ORDERED.

Dated this 21st day of November, 2005.

Daniel L. Hovland, Chief Judge
United States District Court